

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA  
SAN DIEGO DIVISION**

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JUAN FRUTOS-PEREZ,

Agency No 

*Petitioner,*

v.

KRISTI NOEM, Secretary, U.S. Department of Homeland Security, et. al.,

*Respondents.*

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**PETITIONER'S PETITION FOR WRIT OF HABEAS CORPUS**

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6 UNITED STATES DISTRICT COURT  
7 SOUTHERN DISTRICT OF CALIFORNIA  
8 SAN DIEGO DIVISION

9 JUAN FRUTOS-PEREZ, )

10 Petitioner, )

11 v. )

12 Kristi NOEM, in her official capacity as Secretary )  
13 of Homeland Security, Christopher J. LAROSE, )  
14 in his official capacity as Warden of Otay Mesa )  
15 Detention Center, Gregory J. ARCHAMBEAULT, )  
16 in his official capacity as San Diego Field Office )  
17 Director, ICE Enforcement Removal Operations; )  
18 Todd LYONS, in his official capacity as Acting Director )  
19 of ICE; and Pamela BONDI, U.S. )  
20 Attorney General; IMMIGRATION AND )  
21 CUSTOMS ENFORCEMENT; DEPARTMENT OF )  
22 HOMELAND SECURITY, )

23 Respondents. )

'25CV3568 TWR SBC

**PETITION FOR WRIT  
OF HABEAS CORPUS**



24 I. INTRODUCTION

25 1. Petitioner JUAN FRUTOS-PEREZ ("Petitioner") is a 55-year-old  
26 Mexican national who last entered the United States on 1989.

27 2. On December 1, 2025, Petitioner was detained by Respondents at the  
28 Otay Mesa Detention Center.

3. Petitioner has not requested a custody redetermination as the impact

1 of the Board of Immigration Appeals (“BIA”) decision in *Matter of Yajure*  
2 *Hurtado*, 28 I&N Dec. 216 (BIA 2025) and the Central District of California’s  
3 decision in *Lazaro Maldonado Bautista, et al v. Ernesto Santacruz Jr, et al.*, 5:cv-  
4 01873 (C.D. Cal. Nov. 20, 2025) has meant that all requests for custody  
5 redetermination under Petitioner’s circumstances have been dismissed for lack  
6 of jurisdiction.

8 4. Petitioner therefore seeks a writ of habeas corpus directing his  
9 immediate release.

## 11 II. VENUE AND JURISDICTION

13 5. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus),  
14 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the Constitution  
15 (Suspension Clause), as Petitioner is presently in custody under the authority  
16 of the United States and challenging his detention as in violation of the  
17 Constitution, laws, or treaties of the United States.

19 6. The federal district courts have jurisdiction under Section 2241 to  
20 hear habeas claims by individuals challenging the lawfulness of their detention  
21 by ICE. *See Jennings v. Rodriguez*, 583 U.S. 281, 290-92 (2018).

23 7. Venue is proper because Petitioner is detained in the Otay Mesa  
24 Detention Center, within the San Diego Division, and Respondent LaRose is his  
25 immediate custodian. *See* 28 U.S.C. §§ 2241(d), 1391(e).

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### III. PARTIES

8. Petitioner is a 55-year-old Mexican national who resides in San Diego, California. He is currently detained by Respondents at the Otay Mesa Detention Center in San Diego, California, pending removal proceedings.

9. Respondent Christopher J. LaRose is the Warden of Otay Mesa Detention Center. Respondent La Rose is responsible for the operation of the Detention Center where Petitioner is detained. As such, Respondent LaRose has immediate physical custody of the Petitioner. He is being sued in his official capacity.

10. Respondent Gregory J. Archambeault is the San Diego Field Office Director (“FOD”) for ICE Enforcement and Removal Operations. Respondent Archambeault is responsible for the oversight of ICE operations at the Otay Mesa Detention Center. Respondent Archambeault is being sued in his official capacity.

11. Respondent Todd Lyons is the Acting Director of ICE. Respondent Lyons is responsible for the administration of ICE and the implementation and enforcement of the immigration laws, including immigrant detention. As such, Respondent Lyons is a legal custodian of Petitioner and is being sued in his official capacity.

12. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (“DHS”). As Secretary of DHS, Secretary Noem is responsible for the general administration and enforcement of the immigration

1 laws of the United States. Respondent Secretary Noem is being sued in her  
2 official capacity.


3 **IV. EXHAUSTION OF REMEDIES**

4 13. No statutory exhaustion requirement applies. *See* 8 § U.S.C. 2241;  
5 *Laing v. Ashcroft*, 370 F.3d 994, 998 (9th Cir. 2004). Therefore, exhaustion is not  
6 jurisdictionally required.  
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8 14. Additionally, further agency steps will be futile. Recently, the BIA  
9 published *Matter of Yajure Hurtado*, 28 I&N Dec. 216 (BIA 2025). In its decision,  
10 the BIA adopted DHS' reading of 8 U.S.C. § 1225(b)(2), finding individuals  
11 similarly situated to Petitioner ineligible for release on bond.  
12

13 15. In Petitioner's case, any request for custody redetermination will be  
14 dismissed by the Immigration Court for lack of jurisdiction and any appeal to  
15 the BIA will be dismissed. *Matter of Yajure Hurtado* and *Lazaro Maldonado*  
16 *Bautista, et al v. Ernesto Santacruz Jr, et al.*, 5:cv-01873 (C.D. Cal. Nov. 20,  
17 2025) currently controls in Petitioner's case and any attempt to request agency  
18 evaluation of his detention will be futile.  
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21 **V. STATEMENT OF FACTS**

22 16. Petitioner is a Mexican national born on  1970. He last  
23 entered the United States on 1989.  
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25 17. On or about December 1, 2025, Petitioner was detained by  
26 Respondents at the Otay Mesa Detention Center.  
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1 18. Petitioner has remained in Respondents' custody since that time.

2 19. Petitioner's master hearing is scheduled for December 18, 2025, at  
3 8:00 a.m. before Immigration Judge Mark Sameit at 7488 Calzada de la  
4 Fuente, San Diego, California.

5 20. Petitioner now seeks habeas relief because continuing his detention  
6 exceeds statutory authority and violates the Fifth Amendment.  
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9 **VI. LEGAL FRAMEWORK FOR RELIEF SOUGHT**

10 21. Habeas corpus relief extends to a person "in custody under or by color  
11 of the authority of the United States" if the person can show he is "in custody  
12 in violation of the Constitution or laws or treaties of the United States." 28  
13 U.S.C. § 2241 (c)(1), (c)(3); see also *Antonelli v. Warden, U.S.P. Atlanta*, 542  
14 F.3d 1348, 1352 (11th Cir. 2008) (holding a petitioner's claims are proper under  
15 28 U.S.C. section 2241 if they concern the continuation or execution of  
16 confinement).  
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18 22. "[H]abeas corpus is, at its core, an equitable remedy," *Schlup v.*  
19 *Delo*, 513 U.S. 298, 319 (1995), that "[t]he court shall ... dispose of [] as law  
20 and justice require," 28 U.S.C. § 2243. "[T]he court's role was most extensive  
21 in cases of pretrial and noncriminal detention." *Boumediene v. Bush*, 553  
22 U.S. 723, 779–80 (2008). "[W]hen the judicial power to issue habeas corpus  
23 properly is invoked the judicial officer must have adequate authority to make  
24 a determination in light of the relevant law and facts and to formulate and  
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1 issue appropriate orders for relief, including, if necessary, an order directing  
2 the prisoner's release." *Id.* at 787.

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4 **VII. CAUSES OF ACTION**

5 **COUNT ONE**

6 **8 U.S.C. § 1226(a), NOT 8 U.S.C. § 1225(b), APPLIES TO PETITIONER**

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8 23. Petitioner incorporates paragraphs 1 through 22 as if fully set out  
9 herein.

10 24. Recently, Respondents began arguing that those in situations similar  
11 to Petitioner are detained pursuant to 8 U.S.C. § 1225(b)(2), which mandates  
12 the detention of an "applicant for admission" throughout the entirety of  
13 removal proceedings.

14  
15 25. Respondents' newly formulated definition of "applicant for  
16 admission," which would include any noncitizen who has not been formally  
17 admitted regardless of years of residence in the United States, directly  
18 contradicts both the plain text of the statute and controlling Ninth Circuit  
19 precedent.

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21 26. As the Ninth Circuit explained in interpreting the phrase "applicant  
22 for admission" under § 1225(b)(1), "*an immigrant submits an 'application for*  
23 *admission' at a distinct point in time,*" and stretching that phrase to apply  
24 "*potentially for years or decades ... would push the statutory text beyond its*  
25 *breaking point.*" *United States v. Gambino-Ruiz*, 91 F.4th 981, 988–89 (9th Cir.  
26 2024) (citing *Torres v. Barr*, 976 F.3d 918, 922–26 (9th Cir. 2020) (en banc)).  
27

1 27. Because Petitioner has resided continuously in the United States  
2 since 1989, his period as an “applicant for admission” has long since closed.

3 28. Numerous courts across the United States have considered this issue  
4 subsequent to Respondents’ new policy of treating the vast majority of  
5 immigrants in their custody as being detained pursuant to 8 U.S.C. §  
6 1225(b)(2) and the BIA’s decision supporting this interpretation in *Matter of*  
7 *Yajure Hurtado*, 28 I&N Dec. 216 (BIA 2025).

8 29. This Court, joining the general consensus with other courts across  
9 this country, has previously held those similarly situated to Petitioner are  
10 being held under 8 U.S.C. § 1226(a) and therefore are not subject to mandatory  
11 detention under 8 U.S.C. § 1225(b). *See e.g., Martinez Lopez v. Noem, et al.*, No:  
12 25-cv-2717-JES-AHG, 2025 WL 3030457 (S.D. Cal. Oct. 30, 2025).

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17 **COUNT TWO**  
**(PROCEDURAL DUE PROCESS)**

18 30. Petitioner incorporates paragraphs 1 through 22 as if fully set out  
19 herein.

20 31. The Fifth Amendment forbids deprivation of liberty without notice  
21 and a meaningful opportunity to be heard before a neutral decision-maker. Due  
22 process protects “all ‘persons’ within the United States, including [non-  
23 citizens], whether their presence here is lawful, unlawful, temporary, or  
24 permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 698 (2001).

25 32. Subsection 1003.19(i)(2) strips Petitioner of that protection by  
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1 allowing the prosecuting agency—after losing at the bond hearing—to veto the  
2 Immigration Judge’s order with a one-page notice that requires no showing of  
3 danger, flight risk, or likelihood of success on appeal.

4  
5 33. Applying the *Mathews v. Eldridge*, 424 U.S. 319 (1976), test,  
6 Petitioner’s liberty interest is paramount; the risk of erroneous deprivation is  
7 extreme considering the Immigration Judge’s determination that Petitioner is  
8 not subject to mandatory detention under 8 U.S.C. § 1226(c) and does not pose  
9 a danger to the community. Likewise, the risk of erroneous deprivation of  
10 liberty is great due to the lack of a non-independent adjudicator. *Marcello v.*  
11 *Bonds*, 39 U.S. 302, 305-306 (1955). In filing Form EOIR-43, ICE is acting as  
12 both the prosecutor as well as the adjudicator.

13  
14 34. While the government has discretion to detain individuals under 8  
15 U.S.C. § 1226(a) and to revoke custody decisions under 8 U.S.C. § 1226(b), this  
16 discretion is not “unlimited” and must comport with constitutional due process.  
17  
18 *See Zadvydas*, 533 U.S. at 698.

19  
20 **PRAYER FOR RELIEF**

21 WHEREFORE, Petitioner prays that this Court grant the following relief:

- 22  
23 1) Assume jurisdiction over this matter;
- 24 2) Grant Petitioner a writ of habeas corpus directing the Respondents to  
25 immediately release him from custody, under reasonable conditions of  
26 supervision;

- 1 3) Order Respondents to refrain from transferring Petitioner out of the
- 2 jurisdiction of this court during the pendency of these proceedings and while
- 3 the Petitioner remains in Respondents' custody;
- 4
- 5 4) Order Respondents to file a response within 3 business days of the filing of
- 6 this petition;
- 7
- 8 5) Award attorneys' fees to Petitioner; and
- 9
- 10 6) Grant any other and further relief which this Court deems just and proper.

11 I affirm, under penalty of perjury, that the foregoing is true and correct.

12 Respectfully submitted this 12th day of December, 2025.

13 /s/ Murray D. Hilts

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